

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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In re: Bair Hugger Forced Air Warming  
Products Liability Litigation

MDL No. 2666  
(JNE/FLN)

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This Document Relates to All Actions

**JOINT MOTION REGARDING**  
**CONTINUED SEALING**

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Documents have been filed under temporary seal in connection with the following motion:

*Defendant 3M Company's Motion to Remove "Confidential"* (Doc. No.  
*Designation from Documents Produced by Ridgeview Medical* 393)  
*Center*

Pursuant to LR 5.6, the parties submit this Joint Motion Regarding Continued Sealing.

Dated: June 1, 2017

Respectfully submitted,

/s/ Monica L. Davies

Jerry W. Blackwell (MN #186867)  
Mary S. Young (MN #0392781)  
Benjamin W. Hulse (MN #0390952)  
Monica L. Davies (MN #0135023)  
BLACKWELL BURKE P.A.  
431 South Seventh Street  
Suite 2500  
Minneapolis, MN 55415  
Phone: (612) 343-3256  
Fax: (612) 343-3205  
Email: blackwell@blackwellburke.com  
myoung@blackwellburke.com  
bhulse@blackwellburke.com  
mdavies@blackwellburke.com

Bridget M. Ahmann (MN #016611x)  
FAEGRE BAKER DANIELS LLP  
2200 Wells Fargo Center  
90 South Seventh Street  
Minneapolis, MN 55402  
(612) 766-7000  
Email: bridget.ahmann@faegrebd.com

**Counsel for Defendants 3M Company  
and Arizant Healthcare, Inc.**

/s/ Genevieve M. Zimmerman

Genevieve M. Zimmerman (MN #330292)  
MESH BESHER & SPENCE, LTD.  
1616 Park Avenue South  
Minneapolis, MN 55404  
Phone: (612) 339-9121  
Fax: (612) 339-9188  
Email: gzimmerman@meshbesh.com

Michael V. Ciresi (MN #0016949)  
Jan M. Conlin (MN #0192697)  
CIRESI CONLIN LLP  
225 S. 6th St., Suite 4600  
Minneapolis, MN 55402  
Phone: 612.361.8202  
Email: MVC@CiresiConlin.com  
JMC@CiresiConlin.com

**Co-Lead Counsel for Plaintiffs**

/s/ J. Randall Benham  
J. Randall Benham (#0154726)  
AUGUSTINE BIOMEDICAL & DESIGN LLC  
6581 City West Parkway  
Eden Prairie, MN 55127  
Phone: (952) 465-3500  
Fax: (953) 465-3501  
Email: rbenham@augbiomed.com

**Counsel for Scott Augustine**

/s/ Kelly C. Dohm  
Kelly C. Dohm (#0254046)  
MELCHERT HUBERT SJODIN, PLLP  
121 West Main Street, Suite 200  
Waconia, MN 55387  
Phone: (952) 442-7700  
Fax: (952) 442-6166  
Email: kdohm@mhslaw.com

**Counsel for Ridgeview Medical Center**

DKT. NO.	DESCRIPTION OF DOCUMENT	MARK "X" IN APPLICABLE COLUMN			NONPARTY THAT DESIGNATED DOC. CONFIDENTIAL (IF ANY)	REASON WHY DOCUMENT SHOULD REMAIN SEALED OR BE UNSEALED <sup>1</sup>
		Parties Agree Doc. Should Remain Sealed	Parties Agree Doc. Should Be Unsealed	Parties Disagree		
395	Memorandum in Support of Motion to Remove "Confidential" Designation from Documents Produced by Ridgeview Medical Center			X		The Court granted 3M's motion to lift the "confidential" designation from documents produced by Ridgeview Medical Center. The portions of Dkt. No. 395 referring to such documents should thus be unsealed. Dkt. No. 395 also refers to documents designated as confidential by Dr. Augustine, which he believes should remain under seal. 3M does not agree those documents are confidential and, thus, does not agree they should remain under seal.
397	Declaration of Benjamin W. Hulse in Support of Motion to Remove "Confidential" Designation from Documents Produced by Ridgeview Medical Center			X		The Court granted 3M's motion to lift the "confidential" designation from documents produced by Ridgeview Medical Center. The portions of Dkt. No. 395 referring to such documents should thus be unsealed. Dkt. No. 395 also refers to documents designated as confidential by Dr. Augustine, which he believes should remain under seal. 3M does not agree those documents are confidential and, thus, does not agree they should remain under seal.

399	Exhibit A – Summary chart that describes the documents at issue in 3M’s motion		X			The Court granted 3M’s motion to lift the “confidential” designation from documents produced by Ridgeview Medical Center. The documents described in the chart are no longer considered confidential and, thus, there is no reason to keep them under seal.
400	Exhibit B – Email chain between J. Randall Benham, David Hodges, Gabriel Assaad and Scott Augustine, including emails from April 25, 2013 through April 30, 2013		X		Dr. Scott Augustine	Dr. Augustine designated this document as confidential and believes it should remain under seal. 3M does not believe the confidential designation is appropriate, and notes that Dr. Augustine has not identified any provision of the Protective Order that would be applicable. Thus, 3M does not agree that the document should remain sealed.
401	Exhibit C – “Bair Hugger Warming and Peri-Prosthetic Infections in Joint Replacement Surgery: A Guide to Product Liability Litigation”		X		Dr. Scott Augustine	Dr. Augustine designated this document as confidential and believes it should remain under seal. The Court has already concluded any confidentiality was waived with respect to this document. See Dkt. No. 250 at 9-11. 3M does not believe the confidential designation is appropriate and notes that Dr. Augustine has not identified any provision of the Protective Order that would be applicable. Thus 3M does not agree that the document should remain sealed.



402	Exhibit D – Document produced to 3M by Ridgeview Medical Center, RMC000102-05		X		Ridgeview Medical Center	The Court granted 3M's motion to lift the "confidential" designation from documents produced by Ridgeview Medical Center. The documents described in the chart are no longer considered confidential and, thus, there is no reason to keep them under seal.
403	Exhibit E – Document produced to 3M by Ridgeview Medical Center, RMC0000039		X		Ridgeview Medical Center	The Court granted 3M's motion to lift the "confidential" designation from documents produced by Ridgeview Medical Center. The documents described in the chart are no longer considered confidential and, thus, there is no reason to keep them under seal.
404	Exhibit F – Copy of pages 311-312 from the deposition transcript of Dr. Scott Augustine			X	Dr. Scott Augustine	Dr. Augustine designated this portion of his deposition testimony as confidential, and believes it should remain under seal. 3M does not believe the confidential designation is appropriate and, and notes that Dr. Augustine has not identified any provision of the Protective Order that would be applicable. Thus, 3M does not agree that the testimony should remain sealed.
444	Memorandum in Opposition to 3M Company's Motion to Remove "Confidential" Designation from Documents Produced by Ridgeview Medical Center	X			Ridgeview Medical Center	To the extent Dkt. No. 444 discusses the policies and procedures submitted by Ridgeview in opposition to 3M's motion (described herein), the parties agree that it contains information designated as confidential by a nonparty that should remain sealed. Based on the Court's Order that the "confidential"

						designation be lifted as to the documents at issue in 3M's motion, however, the portions of Dkt. No. 444 that refer to such documents should be unsealed (and unredacted) in accordance with the Order.
445				X		Ridgeview Medical Center Contains information designated as confidential by a nonparty.
446				X		Ridgeview Medical Center Contains information designated as confidential by a nonparty.
448				X		Ridgeview Medical Center Contains information designated as confidential by a nonparty.
450				X		Ridgeview Medical Center Contains information designated as confidential by a nonparty.
452				X		Ridgeview Medical Center Contains information designated as confidential by a nonparty.
455				X		Ridgeview Medical Center Contains information designated as confidential by a nonparty.
457				X		Ridgeview Medical Center Contains information designated as confidential by a nonparty.



460	Exhibit G – Policy No. 3508, Data Classification Policy, RMC000926-RMC000929	X				Ridgeview Medical Center	Contains information designated as confidential by a nonparty.
462	Exhibit H – Policy No. 3511, Enterprise Information Security Governance Policy, RMC000930-RMC000933	X				Ridgeview Medical Center	Contains information designated as confidential by a nonparty.
464	Exhibit I – Policy No. 3516, Passwords Policy, RMC000934-RMC000935	X				Ridgeview Medical Center	Contains information designated as confidential by a nonparty.
466	Exhibit J – Policy No. 3517, Physical Security Policy, RMC000936-RMC000937	X				Ridgeview Medical Center	Contains information designated as confidential by a nonparty.
468	Exhibit K – Ridgeview Medical Center Termination/Separation Checklist, RMC000938	X				Ridgeview Medical Center	Contains information designated as confidential by a nonparty.
470	Exhibit L – Policy No. 3518, Privacy (Employee) Policy, RMC000939-RMC000940	X				Ridgeview Medical Center	Contains information designated as confidential by a nonparty.
472	Exhibit M – Policy No. 3521, Vendor/Third-Party Access Policy, RMC000941-RMC000943	X				Ridgeview Medical Center	Contains information designated as confidential by a nonparty.
474	Exhibit N – Documents containing Ridgeview Medical Center's Code of Conduct, RMC000944-RMC000951	X				Ridgeview Medical Center	Contains information designated as confidential by a nonparty.
476	Exhibit O – Documents contain an Employee Acknowledgement form regarding Ridgeview Medical Center's Employee Handbook, RMC000952-RMC000957	X				Ridgeview Medical Center	Contains information designated as confidential by a nonparty.



478	Exhibit P – Computer Access Request Form, RMC000958	X					Contains information designated as confidential by a nonparty.
481	Exhibit A to the Affidavit of Kelly C. Dohm	X					Contains information designated as confidential by a nonparty.
483	Exhibit C to the Affidavit of Kelly C. Dohm	X					Contains information designated as confidential by a nonparty.
485	Exhibit E to the Affidavit of Kelly C. Dohm	X					Contains information designated as confidential by a nonparty.

Plaintiffs take no position with respect to the sealing of these documents for purposes of this motion.

<sup>i</sup> This explanation should be very brief. For example:

1. contains information designated as confidential by a nonparty
2. contains information designated as confidential under a non-disclosure agreement between plaintiff and nonparty
3. contains information designated as confidential under a protective order issued in this case [Docket No. XX]
4. discovery materials filed in connection with a motion under Fed R. Civ. P. 37
5. reveals trade secrets of defendant
6. reveals proprietary business methods of plaintiff
7. confidential financial records
8. confidential medical records
9. contains termination information regarding former employees of defendant
10. reveals information regarding a minor
11. contains information ordered sealed by the court on DATE [Docket No. XX]